

# EXHIBIT “A”

**FILED: SUFFOLK COUNTY CLERK 07/16/2021 03:09 PM**

NYSCEF DOC. NO. 1

INDEX NO. 613540/2021

RECEIVED NYSCEF: 07/16/2021

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF SUFFOLK**

*Index No.*

*Date Filed:*

**SANDRA L. NUNES,**

*Plaintiff,*

*-against-*

**HUNTINGTON PLAZA SHOPPING CENTER, LLC,**

*Defendant.*

*Plaintiff designates Suffolk County as  
the place of trial*

*The basis of venue is  
plaintiff's residence*

**SUMMONS**

*Plaintiff resides at  
49 Everet St.  
Huntington Sta., NY 11746*

*County of Suffolk*

*To the above named Defendant:*

***You are hereby summoned to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance on the plaintiff's attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.***

***Defendant's address:***

***HUNTINGTON PLAZA SHOPPING  
CENTER, LLC  
c/o CT Corporation System  
28 Liberty St.  
New York, New York 10005***

***Defendant's Insurance Co.:***

***ESIS Insurance  
Claim #76151672269872***

***SIBEN & SIBEN, LLP  
Attorneys for Plaintiff  
Office and Post Office Address  
90 East Main Street  
Bay Shore, New York 11706  
(631) 665-3400  
File No: 4/16/20 A***

***SEND TO YOUR INSURANCE COMPANY PROMPTLY***

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AGF/tv  
SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF SUFFOLK  
-----X

SANDRA L. NUNES,

Plaintiff,

COMPLAINT

-against-

Index No.

HUNTINGTON PLAZA SHOPPING CENTER, LLC,

Defendant.  
-----X

AS AND FOR A FIRST CAUSE OF ACTION:

Plaintiff, complaining of the defendant by her attorneys, SIBEN & SIBEN, LLP,  
respectfully alleges, upon information and belief:

FIRST: That, at all times hereinafter mentioned, defendant, HUNTINGTON PLAZA  
SHOPPING CENTER, LLC, was a domestic corporation duly organized and existing under and  
by virtue of the laws of the State of New York.

SECOND: That, at all times hereinafter mentioned, defendant, HUNTINGTON PLAZA  
SHOPPING CENTER, LLC, was a foreign corporation authorized to do business in the State of  
New York.

THIRD: That, at all times hereinafter mentioned, defendant, HUNTINGTON PLAZA  
SHOPPING CENTER, LLC, was a partnership or other unincorporated entity authorized to do  
business in the State of New York.

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FOURTH: That, at all times hereinafter mentioned, defendant, HUNTINGTON PLAZA SHOPPING CENTER, LLC, was the owner and/or one of the owners of a certain premises known as 721 East Jericho Turnpike, Huntington Station, New York.

FIFTH: That, at all times hereinafter mentioned, defendant, HUNTINGTON PLAZA SHOPPING CENTER, LLC, its agents, servants and/or employees operated a certain premises known as 721 East Jericho Turnpike, Huntington Station, New York.

SIXTH: That, at all times hereinafter mentioned, defendant, HUNTINGTON PLAZA SHOPPING CENTER, LLC, its agents, servants and/or employees managed a certain premises known as 721 East Jericho Turnpike, Huntington Station, New York.

SEVENTH: That, at all times hereinafter mentioned, defendant, HUNTINGTON PLAZA SHOPPING CENTER, LLC, its agents, servants and/or employees controlled a certain premises known as 721 East Jericho Turnpike, Huntington Station, New York.

EIGHTH: That, at all times hereinafter mentioned, defendant, HUNTINGTON PLAZA SHOPPING CENTER, LLC, its agents, servants and/or employees maintained a certain premises known as 721 East Jericho Turnpike, Huntington Station, New York.

NINTH: That, at all times hereinafter mentioned, defendant, HUNTINGTON PLAZA SHOPPING CENTER, LLC, was the owner and/or one of the owners of a certain parking lot at the aforesaid premises located at 721 East Jericho Turnpike, Huntington Station, New York.

TENTH: That at all times hereinafter mentioned, defendant, HUNTINGTON PLAZA SHOPPING CENTER, LLC, its agents, servants and/or employees operated the parking lot at the aforesaid premises located at 721 East Jericho Turnpike, Huntington Station, New York.

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ELEVENTH: That, at all times hereinafter mentioned, defendant, HUNTINGTON PLAZA SHOPPING CENTER, LLC, its agents, servants and/or employees managed the parking lot at the aforesaid premises located at 721 East Jericho Turnpike, Huntington Station, New York.

TWELFTH: That, at all times hereinafter mentioned, defendant, HUNTINGTON PLAZA SHOPPING CENTER, LLC, its agents, servants and/or employees controlled the parking lot at the aforesaid premises located at 721 East Jericho Turnpike, Huntington Station, New York.

THIRTEENTH: That, at all times hereinafter mentioned, defendant, HUNTINGTON PLAZA SHOPPING CENTER, LLC, its agents, servants and/or employees maintained the parking lot at the aforesaid premises located at 721 East Jericho Turnpike, Huntington Station, New York.

FOURTEENTH: That, at all times hereinafter mentioned, defendant, HUNTINGTON PLAZA SHOPPING CENTER, LLC, was the owner and/or one of the owners of the handicap ramp leading to the curb adjacent to the aforesaid parking lot at the aforesaid premises located at 721 East Jericho Turnpike, Huntington Station, New York.

FIFTEENTH: That, at all times hereinafter mentioned, defendant, HUNTINGTON PLAZA SHOPPING CENTER, LLC, operated the handicap ramp leading to the curb adjacent to the aforesaid parking lot at the aforesaid premises located at 721 East Jericho Turnpike, Huntington Station, New York.

SIXTEENTH: That, at all times hereinafter mentioned, defendant, HUNTINGTON PLAZA SHOPPING CENTER, LLC, managed the handicap ramp leading to the curb adjacent to the aforesaid parking lot at the aforesaid premises located at 721 East Jericho Turnpike, Huntington Station, New York.

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SEVENTEENTH: That, at all times hereinafter mentioned, defendant, HUNTINGTON PLAZA SHOPPING CENTER, LLC, controlled the handicap ramp leading to the curb adjacent to the aforesaid parking lot at the aforesaid premises located at 721 East Jericho Turnpike, Huntington Station, New York.

EIGHTEENTH: That, at all times hereinafter mentioned, defendant, HUNTINGTON PLAZA SHOPPING CENTER, LLC, maintained the handicap ramp leading to the curb adjacent to the aforesaid parking lot at the aforesaid premises located at 721 East Jericho Turnpike, Huntington Station, New York.

NINETEENTH: That, at all times hereinafter mentioned, defendant, HUNTINGTON PLAZA SHOPPING CENTER, LLC, was the owner and/or one of the owners of the curb adjacent to the aforesaid parking lot at the aforesaid premises located at 721 East Jericho Turnpike, Huntington Station, New York.

TWENTIETH: That, at all times hereinafter mentioned, defendant, HUNTINGTON PLAZA SHOPPING CENTER, LLC, its agents, servants and/or employees operated the curb adjacent to the aforesaid parking lot at the aforesaid premises located at 721 East Jericho Turnpike, Huntington Station, New York.

TWENTY-FIRST: That, at all times hereinafter mentioned, defendant, HUNTINGTON PLAZA SHOPPING CENTER, LLC, its agents, servants and/or employees managed the curb adjacent to the aforesaid parking lot at the aforesaid premises located at 721 East Jericho Turnpike, Huntington Station, New York.

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TWENTY-SECOND: That, at all times hereinafter mentioned, defendant, HUNTINGTON PLAZA SHOPPING CENTER, LLC, its agents, servants and/or employees controlled the curb adjacent to the aforesaid parking lot at the aforesaid premises located at 721 East Jericho Turnpike, Huntington Station, New York.

TWENTY-THIRD: That, at all times hereinafter mentioned, defendant, HUNTINGTON PLAZA SHOPPING CENTER, LLC, its agents, servants and/or employees maintained the curb adjacent to the aforesaid parking lot at the aforesaid premises located at 721 East Jericho Turnpike, Huntington Station, New York.

TWENTY-FOURTH: That, at all times hereinafter mentioned, defendant, HUNTINGTON PLAZA SHOPPING CENTER, LLC, invited members of the general public to the aforesaid premises for business purposes.

TWENTY-FIFTH: That, on the 16<sup>th</sup> day of April, 2020, while the plaintiff was lawfully at the aforesaid location, she was caused to be propelled to the ground and become severely injured due to the carelessness, recklessness and negligence of the defendant, its agents, servants and/or employees.

TWENTY-SIXTH: That the defendant, its agents, servants and/or employees was careless, reckless and negligent in the ownership, operation, maintenance, management, supervision and control of the aforesaid premises, parking lot, handicap ramp, and curb located thereat; in carelessly, recklessly and negligently causing, allowing and/or permitting the plaintiff to be propelled to the ground and become seriously injured; in failing to provide plaintiff with a safe place to walk; in carelessly, recklessly and negligently causing, allowing and/or permitting

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portions of the curb to be raised, chipped, cracked and missing, creating a hazard and a snare; in carelessly, recklessly and negligently causing, allowing and/or permitting the aforesaid handicap ramp to be raised, chipped, cracked, and irregular, creating a hazard and a snare; in failing to maintain the aforesaid handicap ramp and curb area in a safe and proper manner; in failing to properly delineate or mark the aforesaid handicap ramp and curb area; in failing to adequately delineate the aforesaid area; in failing to foresee this occurrence; in failing to post signs, notices and/or other warnings of the dangerous and defective condition existing thereat; in failing to erect barricades, fences, ropes, cones or other safety devices for the proper protection of plaintiff and other patrons; that defendant knew, or by reasonable inspection thereof, should have known of the dangerous and defective condition existing thereat and failed to repair and/or remedy the same; in carelessly, recklessly and negligently causing, allowing and/or permitting the aforesaid condition to be and remain for a long and unreasonable length of time under the circumstances then and there existing; in failing in their non-delegable duties to the plaintiff herein; and, in other ways, acted in a careless, reckless and negligent manner.

TWENTY-SEVENTH: That, at all times hereinafter mentioned, defendant had actual, constructive and/or written notice of the aforesaid dangerous and defective condition.

TWENTY-EIGHTH: That by reason of the premises, the plaintiff was rendered sick, sore maimed and disabled; and she was injured, bruised and wounded about her head, body and limbs; and upon information and belief, some of her injuries are of a permanent nature and character; and she has suffered and continues to suffer physical pain and mental anguish; and she has been incapacitated, all to her damage in a sum in excess of the monetary limits of any lower courts.



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TWENTY-NINTH: That this action falls within one or more of the exceptions set forth in C.P.L.R. 1602.

**AS AND FOR A SECOND CAUSE OF ACTION**

THIRTIETH: That, at all times hereinafter mentioned, this plaintiff repeats, reiterates and re-alleges each and every allegation as contained in the first cause of action with the same force and effect as though the same were set forth at length herein.

THIRTY-FIRST: That the defendant has violated the applicable ordinances, provisions and/or laws promulgated by the New York State Uniform Fire Prevention and Building Codes and/or the American with Disabilities Act regarding minimum standards to safeguard life, limb, health, property and public welfare, concerning installation of curbs, handicap ramps, accessibility to usable buildings for persons with disabilities, accessible means of ingress and egress to usable buildings and facilities, thresholds, steps, changes in level, step widths, riser lengths, tread widths and safety devices.

THIRTY-SECOND: That, by reason of the foregoing, defendant is liable to the plaintiff under the doctrine of "strict liability".

THIRTY-THIRD: That, by reason of the foregoing, plaintiff has been damaged in a sum in excess of the monetary limits of any lower courts.

THIRTY-FOURTH: That this action falls within one or more of the exceptions set forth in C.P.L.R. 1602.

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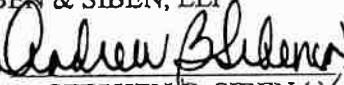
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WHEREFORE, plaintiff, SANDRA L. NUNES, demands judgment against the defendant in the first cause of action in a sum in excess of the monetary limits of any lower courts; and in the second cause of action in a sum in excess of the monetary limits of any lower courts, together with the costs and disbursements of these actions.

SIBEN & SIBEN, LLP

By

  
STEPHEN G. SIBEN (✓)  
ANDREW B. SIBEN (✓)  
JACQUELINE SIBEN ( )  
MARK A. RUDNER ( )

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